

STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT 21141

Application 30915 of

James M. Siller
752 Colusa Avenue
Yuba City, CA 95991

filed on **July 1, 1999**, has been approved by the State Water Resources Control Board (SWRCB)
SUBJECT TO PRIOR RIGHTS and to the limitations and conditions of this permit.

Permittee is hereby authorized to divert and use water as follows:

1. Source of water

Source:

Vineyard Creek

Tributary to:

Dry Creek thence

Bear River thence

Feather River

within the County of **Yuba**.

2. Location of point of diversion

By California Coordinate System of 1927, in Zone 2	40-acre subdivision of public land survey or projection thereof	Section (Projected)*	Township	Range	Base and Meridian
POD 1; North 553,950 feet and East 2,191,400 feet	SE¼ of SE¼	5	15N	6E	MD
POD 2; North 555,500 feet and East 2,191,500 feet	NE¼ of NE¼	5	15N	6E	MD

3. Purpose of use	4. Place of use	Section (Projected)*	Township	Range	Base and Meridian	Acres
Aquaculture	SE¼ of SE¼	5	15N	6E	MD	NA
Recreation	NE¼ of NE¼	5	15N	6E	MD	NA
Fire Protection	Same as Above					

The place of use is shown on map on file with the SWRCB.

5. **Quantity of Water - Storage, Multiple:** The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed a total of 89 acre-feet per annum to be collected from December 1 of each year to April 30 of the succeeding year as follows: 49 acre-feet per annum (afa) in Reservoir #1 at POD #1, and 40 acre-feet per annum in Reservoir #2 at POD #2.
(0000005D)
6. **No Off-Season Storage:** This permit does not authorize collection of water to storage outside of the specified season to offset evaporation and seepage losses or for any other purpose.
(0000005I)
7. **All Reservoir Storage Projects - Enlargement of Reservoir(s):** The total combined capacity of the two reservoirs covered under this permit shall not exceed 89 acre-feet.
(0000005N)
8. **Complete Construction and Use:** Construction work and complete application of the water to the authorized use shall be prosecuted with reasonable diligence and completed by December 31, 2012.
(0000009)
9. **Limited Storage - Nonconsumptive Uses (Aquaculture, Fire Protection, Recreation):** After the initial filling of the storage reservoirs, permittee's right under this permit extends only to water necessary to keep the reservoirs full by replacing water lost by evaporation and seepage and to refill if emptied for necessary maintenance or repair. Such right shall be exercised only during the authorized diversion season.
(0000040)
10. **Continuing Authority – Reduction in Storage:** This permit is subject to the continuing authority of the State Water Resources Control Board to reduce the amount named in the permit upon a finding by the Board that the amount is in excess of that reasonably needed to be held in storage for the authorized use. No action will be taken by the Board without prior notice to the owner and an opportunity for hearing.
(0000042)
11. **Outlet Pipe – Multiple Reservoirs & Dams Built:** Permittee shall install and maintain an outlet pipe of adequate capacity in each dam as near as practicable to the bottom of the natural stream channel, or provide other means satisfactory to the State Water Resources Control Board, in order that water entering the reservoirs which is not authorized for appropriation under this permit can be released. Before storing water in the reservoirs, permittee shall furnish evidence which substantiates that the outlet pipes, or alternative facilities, have been installed in the dam. Evidence shall include photographs showing completed works or certification by a registered Civil or Agricultural Engineer.
(0050043BP)
12. **Reduction of Diversion Season – Delta and Tributary Rivers:** This permit is subject to prior rights. Permittee is put on notice that, during some years, water will not be available for diversion during portions or all of the season authorized herein. The annual variations in demands and hydrologic conditions in the Sacramento River Basin are such that, in any year of water scarcity, the season of diversion authorized herein may be reduced or completely eliminated by order of the SWRCB, made after notice to interested parties and opportunity for hearing.
(0000090)

13. **Fire Protection Limitation:** The right to use water for fire protection purposes authorized by this permit is limited to that quantity normally necessary for actual fire fighting and to maintain an adequate reserve for fire protection.
(0000116)
14. **Other Agency Permits:** Permittee shall obtain all necessary state and local agency permits and approvals required by other agencies prior to construction, diversion and use of water. Copies of such permits and approvals shall be forwarded to the Chief, Division of Water Rights. Permittee shall obtain an aquaculture permit and a species stocking permit from Department of Fish and Game for the two reservoirs.
(0000203)
15. **Revegetation And Landscaping Plan:** Permittee shall for the maintenance of mixed Foothill Hardwood-Conifer Forest and mixed Chaparral, plant five trees for every one tree removed or buried, plant 3 shrubs for every one shrub removed or buried, and re-seed grasses as appropriate to cover bare-earth areas. The number of trees planted does not need to exceed 250 and the number of shrubs does not need to exceed 85. Trees and shrubs may be planted in mixed groves in order to maximize wildlife benefits. Trees, shrubs, and other plants used will be native to Yuba County and of similar species as those removed or buried. Trees and shrubs will be maintained such that a survival rate of 75% for trees and 75% for shrubs is achieved at the end of a five-year period. If the survival rates are not obtained, then new trees and shrubs will be planted. A revegetation and landscaping plan for trees, shrubs, and grasses will be submitted to and approved by Department of Fish and Game and a copy of the approved plan will be submitted to and approved by the Chief, Division of Water Rights, prior to its implementation. Photo documentation showing the trees, shrubs, and grasses will be submitted to the Chief, Division of Water Rights, three years after completion of the planting program and plants will be replaced as needed to assure a 75% survival rate for trees and shrubs. The re-planted woodland will be maintained as wildlife habitat as long as water is being diverted under any permit or license issued pursuant to Application 30915.
(0000210)
16. **Erosion Control Plan:** Permittee shall submit for approval to the Chief, Division of Water Rights, an erosion control plan and implementation schedule, prepared by a licensed civil engineer. The erosion control plan shall include and incorporate the plans and schedules as found in the approved revegetation and landscaping plan and in the Department of Fish and Game's approved stream alteration agreement. Permittee shall furnish evidence to the Chief, Division of Water Rights, which substantiates that the above plans and agreements have been implemented. Evidence includes photographs showing the project area's vegetated slopes.
(0000207)
17. **Cultural Resources Protection:** Should any buried archeological materials be uncovered during project activities, such activities shall cease within 100 feet of the find. Prehistoric archeological indicators include: obsidian and chert flakes and chipped stone tools; bedrock outcrops and boulders with mortar cups; ground stone implements (grinding slabs, mortars and pestles) and locally darkened midden soils containing some of the previously listed items plus fragments of bone and fire affected stones. Historic period site indicators generally include: fragments of glass, ceramic and metal objects; milled and split lumber; and structure and feature remains such as building foundations, privy pits, wells and dumps; and old trails. The Chief of the Division of Water Rights shall be notified of the discovery and a professional archeologist shall be retained by the Permittee to evaluate the find and recommend appropriate mitigation measures. Proposed

mitigation measures shall be submitted to the Chief of the Division of Water Rights for approval. Project-related activities shall not resume within 100 feet of the find until all approved mitigation measures have been completed to the satisfaction of the Chief of the Division of Water Rights (0000215)

18. **Dam Safety – Small Dam Constructed:** Storage of water under this permit shall not begin until the County Engineer, the United States Soil Conservation Service, or a civil engineer registered by the State of California has approved the plans and specifications for the two dams, or has otherwise certified as to the safety of the dams, and any modification, reconstruction, or enlargement of the dams is under the direction of said party. (000000K1)

ALL PERMITS ISSUED BY THE STATE WATER RESOURCES CONTROL BOARD ARE SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:

- A. **Reduction in License:** The amount authorized for appropriation may be reduced in the license if investigation warrants. (0000006)
- B. **Progress Reports:** Progress reports shall be submitted promptly by permittee when requested by the SWRCB until a license is issued. (0000010)
- C. **Access to Project:** Permittee shall allow representatives of the SWRCB and other parties, as may be authorized from time to time by said SWRCB, reasonable access to project works to determine compliance with the terms of this permit. (0000011)
- D. **Continuing Jurisdiction:** Pursuant to California Water Code sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of SWRCB in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the SWRCB may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the SWRCB determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the SWRCB also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the SWRCB determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest; and is necessary to preserve or restore the uses protected by the public trust.

(0000012)

- E. **Water Quality Objectives:** The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the SWRCB if, after notice to the permittee and an opportunity for hearing, the SWRCB finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the SWRCB finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.

(0000013)

- F. **Endangered Species Act:** This permit does not authorize any act which results in the taking of a threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code sections 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. sections 1531 to 1544). If a "take" will result from any act authorized under this water right, the permittee shall obtain authorization for an incidental take prior to construction or operation of the project. Permittee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this permit.

(0000014)

- G. **Water Use Recordation:** Permittee shall maintain records of the amount of water diverted and used to enable the State Water Resources Control Board to determine the amount of water that has been applied to beneficial use pursuant to Water Code Section 1605.

(0000015)

- H. **Streambed Alteration Agreement:** No work shall commence and no water shall be diverted, stored or used under this permit until a copy of a stream or lake alteration agreement between the State Department of Fish and Game and the permittee is filed with the Division of Water Rights. Compliance with the terms and conditions of the agreement is the responsibility of the permittee. If a stream or lake agreement is not necessary for this permitted project, the permittee shall provide the Division of Water Rights a copy of a waiver signed by the State Department of Fish and Game.

(0000016)

This permit is issued and permittee takes it subject to the following provisions of the Water Code:

Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

STATE WATER RESOURCES CONTROL BOARD


for Harry M. Schueller
Chief Deputy Director

Dated: January 2, 2003